

COPY

ANTHONY R. LOPEZ, a Professional Corporation  
LAW OFFICES LOPEZ & ASSOCIATES  
ANTHONY R. LOPEZ, CASBN 149653  
9025 Wilshire Blvd., Suite 500  
Beverly Hills, California 90211  
Telephone: (310)276-4700  
facsimile:(310)861-0509

Attorney for Plaintiff JUAN CARLOS VELAZQUEZ

13 SEP -6 PM 2:01  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

FILED

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
321 North Spring Street, Los Angeles, CA 90012

JUAN CARLOS VELAZQUEZ;

Plaintiff

vs.

CELSO HERNANDEZ individually and  
doing business as PLAYA LAS TUNAS  
RESTAURANT; LEONARDO  
FRANCO DA SILVA ZANNIER;  
ADAN FRANCO; GIANNI PIVETTA;  
RUBEN AGUILERA; CONCEPCION  
GARCIA and DOES 1 to 5

Defendants.

CV 13-6549 JEL  
Case No.

COMPLAINT FOR:

1. FEDERAL TRADEMARK INFRINGEMENT;
2. FEDERAL TRADEMARK COUNTERFEITING;
3. FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION;
4. DILUTION;

JURY TRIAL DEMANDED

1 Plaintiff Juan Carlos Velazquez, for its complaint alleges as follows:

2 **NATURE OF THE ACTION**

3 1. As a complete and independent claims for relief, Plaintiff asserts  
4 claims of trademark and service mark infringement, counterfeiting, false  
5 designations of origin and unfair competition by Defendants under the laws of the  
6 United States, particularly under the federal Trademark Act, as amended, 15  
7 U.S.C. § 1051 et seq., and California statutory and common law.

8 **JURISDICTION AND VENUE**

9 2. This Court has exclusive subject matter jurisdiction as to the  
10 violations of the Lanham Act pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331,  
11 1332(a)-(c) and § 1338(a). This Court also has pendant jurisdiction over the state  
12 causes of action relating to unfair competition and to trademark, service mark,  
13 trade name and trade dress infringement, pursuant to 28 U.S.C. § 1338(b).

14 3. The Court has specific personal jurisdiction over all the defendants as  
15 each has purposefully committed, within the state, the acts from which these  
16 claims arise and/or has committed tortuous acts outside California, knowing and  
17 intending that such acts would cause injury within the state.

18 4. Venue in this action is proper in the United States District Court for  
19 the Central District of California by virtue of 28 U.S.C. §§ 1391(b) and 1391(c) in  
20 that some defendants reside in this District, transact affairs in this District and that  
21 a substantial part of the events or omissions giving rise to the claims herein  
22 occurred within this District.

23 **THE PARTIES**

24 5. Juan Carlos Velazquez ("Velazquez"), is a resident of the State of  
25 Florida and maintains its principal place of business in Miami, Florida, is the  
26 exclusive owner of the musical group known as "Los Iracundos".

27 6. Plaintiff is informed and believes, and based upon that belief alleges  
28 that Defendant Celso Hernandez resides and maintains his principal place of

business in Los Angeles, California.

7. Plaintiff is informed and believes, and based upon that belief alleges that Defendant Leonardo Franco Da Silva Zannier resides in Uruguay and is conducting business in Los Angeles, California.

8. Plaintiff is informed and believes, and based upon that belief alleges that Defendant Adan Franco resides in Uruguay and is conducting business in Los Angeles, California.

9. Plaintiff is informed and believes, and based upon that belief alleges that Defendant Gianni Pivetta resides in Argentina and is conducting business in Los Angeles, California.

10. Plaintiff is informed and believes, and based upon that belief alleges that Defendant Ruben Aguilera resides in Argentina and is conducting business in Los Angeles, California.

11. Plaintiff is informed and believes, and based upon that belief alleges that Defendant Concepcion Garcia resides in Argentina and is conducting business in Los Angeles, California.

12. The true names and capacities, whether individual, corporate, associate, employee, or otherwise, of the Defendants sued herein as Does 1 through 5, inclusive, currently are unknown to Plaintiff and Plaintiff therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants designated herein as a Doe is responsible legally in some manner for the acts, conduct, omissions and events referred to herein, causing injury and damage proximately thereby to Plaintiff, as alleged hereinafter. Plaintiff will seek leave to amend this Complaint to allege the true names, capacities and circumstances establishing the liability of the Defendants designated herein as Does 1 through 5, inclusive, at such time as Plaintiff ascertains the same.

13. Plaintiff is informed and believes, and on that basis avers that, at all

1 times herein relevant, each of the Defendants was the agent, servant, employee,  
2 supervisor, co-venturer, subsidiary and/or corporate-parent of each of the  
3 remaining Defendants and, at all times herein relevant, each Defendant was acting  
4 within the course, scope, purpose, consent, knowledge, ratification, and  
5 authorization of such agency, employment, joint venture, subsidiary and/or  
6 corporate-parent relationship.

7 14. Whenever in this Complaint reference is made to "Defendant", or  
8 "Defendants" and each of them, such allegations shall refer to all Defendants  
9 named herein, including all Defendants designated herein as Does, and shall be  
10 deemed to mean the conduct of any and all such Defendants acting individually,  
11 jointly and/or severally.

#### 12 GENERAL ALLEGATIONS

13 15. Plaintiff, Velazquez alleges claims for federal trademark infringement  
14 and unfair competition in connection with Defendants' unauthorized and unlawful  
15 use and misappropriation of a duly registered federal trademark and service mark  
16 "Los Iracundos" belonging to Plaintiff's licensor.

17 16. On October 30, 2012, Plaintiff obtained a federal registration of the  
18 trademark and service mark "Los Iracundos" with the United States Patent and  
19 Trademark Office for pre-recorded CDs featuring performances by a musical  
20 group; pre-recorded electronic and digital media featuring performances by a  
21 musical group in Class 9 and as a service mark for entertainment services, namely,  
22 live performances of musical band in Class 41. A true and correct copy of the  
23 Certificate of Registration No. 4,232,880 is attached as ***Exhibit "A"*** and is  
24 incorporated by reference.

25 17. Los Iracundos is a South American musical group created in 1960  
26 by the Plaintiff, it records and performs a Latin rock musical genre. As one the  
27 first Latin Rock groups to reach international success, it is credited with helping to  
28 popularize the genre throughout Latin America and the United States.

1        18. Plaintiff has express authority to commence or prosecute any claims  
2 or suits against third parties with respect to any matter in connection with the  
3 trademark rights to "Los Iracundos" including, without limitation, infringement  
4 actions.

5        19. Plaintiff has used the name "Los Iracundos" substantially and  
6 continuously throughout the United States and the World since March 1974.

7        20. Plaintiff has exhibited the musical group named "Los Iracundos" at  
8 live music performances in venues throughout the United States and World since  
9 March 1974.

10       21. Plaintiff has used the federally registered "Los Iracundos" mark for  
11 live music performances as well as on promotional flyers, electronic and print  
12 media, and other forms of advertisement and marketing for "Los Iracundos"  
13 musical performances.

14       22. At significant expense and effort, Plaintiff has maintained the "Los  
15 Iracundos" federal trademark and enhanced the mark's value.

16       23. Plaintiff has continually and substantially advertised and marketed  
17 performances and other entertainment services, as well as goods, in connection  
18 with the mark "Los Iracundos." Plaintiff has spent considerable sums of money  
19 promoting and enhancing the goodwill associated with the "Los Iracundos"  
20 performances, services, and products throughout the United States and Mexico.

21       24. Plaintiff has continually controlled the content and quality of the "Los  
22 Iracundos" musical performances and other services and goods, which  
23 prominently display the distinctive style, trade dress, and persona of "Los  
24 Iracundos."

25       25. Plaintiff's distinctive trade dress is strongly associated by the public  
26 with Los Iracundos' musical group by virtue of extensive sales promotions,  
27 musical performances, displays, advertising and other marketing efforts, as well as  
28 the "Los Iracundos" manner of musical performance, image, style, sound and

1 presentation.

2 26. As a result of Plaintiff's afore described use, promotion and publicity,  
3 the "Los Iracundos" mark has acquired enormous value and inestimable goodwill,  
4 and has become extremely well-known and famous to the consuming public and  
5 trade as identifying a source of high quality.

6 27. Plaintiff's efforts have strengthened the public meaning of the  
7 inherently distinctive trademark and service mark "Los Iracundos" The mark is  
8 used to indicate the source of Velazquez's "Los Iracundos" public performances  
9 and other goods and services, identifying and distinguishing them from those  
10 rendered or sold by others.

11 28. Plaintiff alleges on information and belief that Defendants have  
12 knowingly operated and promoted a musical group of performing artists who call  
13 and style themselves "Los Iracundos."

14 29. Plaintiff alleges on information and belief that Defendants have been  
15 advertising the performances of musical groups presenting themselves as "Los  
16 Iracundos" at public performances that have taken place over several years.

17 30. Plaintiff alleges on information and belief that Defendants have  
18 knowingly misrepresented to the general public that their groups are the same as  
19 Velazquez's group, which is the rightful owner of the trademark and service mark  
20 "Los Iracundos."

21 31. Plaintiff alleges on information and belief that Defendants have  
22 knowingly misrepresented in several written public advertisements and in other  
23 ways that they are the owners of the mark and trade name "Los Iracundos."

24 32. Plaintiff alleges on information and belief that Defendants have used  
25 the name "Los Iracundos" in connection with the same goods and services as  
26 Velazquez, all in direct violation of Velazquez's "Los Iracundos" rights.

27 33. Plaintiff alleges on information and belief that Defendants and Does 1  
28 through 5, have used the name "Los Iracundos" in advertising and marketing their



1 group to promoters, venue operators, and others, preying upon the public  
2 confusion by utilizing a name that is identical to the tradename and mark of  
3 Plaintiff's musical group and undercutting the market for Plaintiff's group by  
4 selling Defendants' services at a greatly reduced rate from that charged by  
5 Plaintiff's musical group while utilizing an identical moniker.

6 34. Plaintiff alleges on information and belief that Defendants' activities  
7 have led unscrupulous promoters and venue operators to use the sound recordings  
8 and name of "Los Iracundos" to advertise Defendants' services to an unsuspecting  
9 public, particularly since Defendants' pirate group has no sound recordings of th  
10 its own, much less any sound recordings made and marketed under the name "Los  
11 Iracundos".

12 35. The activities of Defendants stand to irreparably harm the group that  
13 Plaintiff has cultivated and Plaintiff now stands to defend as the licensee.

14 36. Plaintiff alleges on information and belief that Defendants have  
15 scheduled public performances for coming weeks in California and elsewhere, and  
16 that unscrupulous promoters and venue operators to whom Defendants sell the  
17 services of the Defendants' group are well aware that Defendants' group is not  
18 "Los Iracundos".

19 37. Plaintiff alleges on information and belief that promoters, venue  
20 operators and others have caused print and other forms of advertising to be placed  
21 before the public in a calculated effort to mislead the public into attending the  
22 performances of Defendants' no-name group by holding the group out as "Los  
23 Iracundos".

24 38. Meanwhile, Plaintiff is irreparably harmed each time Defendants  
25 practice their deceptions upon an unsuspecting public. Such customers are less  
26 likely to be as trusting next time a performance by Plaintiff's musical group is  
27 advertised. The damage to Plaintiff's reputation, earning ability and bottom line is  
28 incalculable; the harm is irreparable.

1           39. Defendants can be expected to continue the above deceptive practices  
2 in order to benefit from the confusion they are causing unless enjoined from such  
3 deceptive activities.

4                               **FIRST CLAIM FOR RELIEF**

5                               **Trademark Infringement in Violation of Section 32**  
6                               **of the Lanham Act, 15 U.S.C. § 1114**

7           40. Plaintiff realleges and incorporates by reference paragraphs 1 through  
8 39 of this complaint as though fully set forth herein.

9           41. This claim for relief arises under Section 32 of the Lanham Act, 15  
10 U.S.C. § 114 and is alleged against all Defendants.

11           42. Plaintiff is the licensee of the musical group, trade name and service  
12 mark "Los Iracundos". Continuously since 1974, Plaintiff has used the mark "Los  
13 Iracundos" in commerce in connection with the services of the musical group as  
14 performing and recording artists. The mark "Los Iracundos" is inherently  
15 distinctive and has acquired a secondary meaning to referring to Plaintiff's group.

16           43. None of the Defendants named herein have any claim or colorable  
17 right to utilize the name "Los Iracundos".

18           44. The foregoing acts of Defendants constitute infringement of U.S.  
19 Trademark Registration No. 4,232,880 in violation of Section 32 of the Lanham  
20 Act, 15 U.S.C. § 1114.

21           45. Defendants' unauthorized use of "Los Iracundos" as a mark falsely  
22 indicates to consumers that Defendants' entertainment services originate from, are  
23 approved by, are licensed by, or are affiliated with Plaintiff or are otherwise  
24 associated with Plaintiff's entertainment services and live music performances.

25           46. Defendants' unauthorized use of "Los Iracundos" in the manner  
26 described above is likely to cause confusion, to cause mistake, or to deceive the  
27 public into believing Defendants' goods and services originate from or are  
28 associated with Plaintiff.



1           47. Defendants' unauthorized use of the "Los Iracundos" mark removes  
2 Velazquez's ability to control the nature and quality of the goods and services  
3 provided under its "Los Iracundos" mark and places the Plaintiff's valuable  
4 reputation and goodwill in the hands of the Defendants.

5           48. Plaintiff is entitled to strong protection under Section 32 of the  
6 Lanham Act because such mark, when used to identify entertainment services and  
7 live music performances is "arbitrary" as to such services.

8           49. Plaintiff believes that it has or is likely to be damaged by Defendants'  
9 use of the mark at issue and will suffer irreparable harm.

10           50. Defendants are therefore liable, without limitation, for the remedies  
11 provided for in 15 U.S.C. § 1114(2), 1116, 1117 and 1118.

12                           **SECOND CLAIM FOR RELIEF**

13                           **Federal Trademark Counterfeiting, 15 U.S.C. § 1114**

14           51. Plaintiff realleges and incorporates by reference paragraphs 1 through  
15 50 of this complaint as if fully set forth herein.

16           52. This claim for relief arises under 15 U.S.C. § 114 and is alleged  
17 against all Defendants.

18           53. Defendants' foregoing acts constitute federal trademark  
19 counterfeiting of Plaintiff's federally registered trademark "Los Iracundos" as  
20 defined by 15 U.S.C. §§ 1114, 1116.

21           54. Federal registration of a trademark is prima facie evidence of a  
22 registrant's exclusive right to use the registered trademark in commerce in  
23 connection with the goods or services specified in the certificate, pursuant to 15  
24 U.S.C. § 1057(b). Plaintiff, Velazquez, as the exclusive owner of the "Los  
25 Iracundos" trademark, possesses the right to initiate proceedings to enforce,  
26 protect, and defend the "Los Iracundos" brand.

27           55. Plaintiff has continually and substantially advertised and marketed  
28 performances and other entertainment services, as well as goods, in connection

1 with the mark "Los Iracundos." Plaintiff has spent considerable sums of money  
2 promoting and enhancing the goodwill associated with the "Los Iracundos"  
3 performances, services, and products throughout the United States and in foreign  
4 countries.

5 56. Defendants have been advertising the performances of musical groups  
6 presenting themselves as "Los Iracundos" at public performances that have taken  
7 place over several years.

8 57. Defendants have knowingly misrepresented in several written public  
9 advertisements and in other ways that they are the owners of the mark and trade  
10 name "Los Iracundos."

11 58. The Defendants' willful and intentional counterfeiting, imitating, and  
12 copying of Velazquez's registered trademark has confused, and will likely  
13 continue to confuse or deceive the public into believing Defendants' goods and  
14 services originate from or are associated with Plaintiff.

15 59. Defendants' activities are in violation of 15 U.S.C. § 1116(1)(a) and  
16 constitute counterfeiting of a registered trademark in connection with the sale or  
17 offering for sale of a service which is likely to cause confusion, mistake or  
18 deception with the services offered by Plaintiff.

19 **THIRD CLAIM FOR RELIEF**

20 **False Designation of Origin and Unfair Competition in Violation of**  
21 **Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)**

22 60. Plaintiff realleges and incorporates by reference paragraphs 1 through  
23 59 of this complaint as if fully set forth herein.

24 61. This claim for relief arises under Section 43(a) of the Lanham Act, 15  
25 U.S.C. § 1125(a) and is alleged against all Defendants.

26 62. Defendants' unauthorized use of the "Los Iracundos" mark, trade  
27 name, and trade dress falsely indicates to consumers that Defendants entertainment  
28 services originate from, are approved by, are sponsored by, are licensed by, or are

1 affiliated with Plaintiff or are otherwise associated with Plaintiff's entertainment  
2 services and live music performances.

3 63. Defendants' unauthorized use of the "Los Iracundos" mark in the  
4 manner described above is likely to cause confusion, to cause mistake, or to  
5 deceive the public into believing Defendants' goods and services originate from or  
6 are associated with Plaintiff.

7 64. Defendants' infringement has been intentional and willful,  
8 constituting an exceptional case pursuant to Section 35 of the Lanham Act, 15  
9 U.S.C. § 1117. Plaintiff is therefore entitled to recover three times the amount of:  
10 (1) Defendants' profits; and (2) Defendants actual damages, including pre-  
11 judgment interest. Plaintiff is further entitled to recover their attorney fees and  
12 costs incurred in this action.

13 65. Defendants' unauthorized use of the "Los Iracundos" trademark, trade  
14 name and trade dress removes from Plaintiff the ability to control the nature and  
15 quality of the goods and services provided under its "Los Iracundos" mark and  
16 places the valuable reputation and goodwill of Plaintiff in the hands of the  
17 Defendants.

18 66. Plaintiff's Licensor's mark is entitled to strong protection under  
19 Section 43(a) of the Lanham Act because such mark, when used to identify  
20 entertainment services and musical sound recordings, is "arbitrary" as to such  
21 services, and because Plaintiff has extensively promoted the mark to the relevant  
22 public.

23 67. Plaintiff has been or is likely to be irreparably damaged by  
24 Defendants' use of the mark, trade name, and trade dress at issue.

25 68. Defendants' actions, as set forth above, constitute trademark, trade  
26 name and trade dress infringement in violation of Section 43(a) of the Lanham  
27 Act, 15 U.S.C. § 1125(a).

28 69 Defendants are therefore liable, without limitation, for the remedies

1 provided for in 15 U.S.C. § 1114(2), 1116, 1117, and 1118.

2 **FOURTH CLAIM FOR RELIEF**

3 **Trademark Dilution Under The Lanham Act**

4 70. Plaintiff realleges and incorporates by reference paragraphs 1 through  
5 69 of this complaint as if fully set forth herein.

6 71. This claim for relief arises under Lanham Act and is alleged against  
7 all Defendants.

8 72. The trade name and mark of Plaintiff's, "Los Iracundos" has become  
9 famous throughout the United States, through use in advertising of the musical  
10 group's services, through radio airplay, record sales, the appearance of the musical  
11 group on television broadcast in Latin America and the United States, newspaper  
12 and magazine articles concerning the group and public appearances at concerts,  
13 dances and events.

14 73. Defendants' use of the "Los Iracundos" mark and distinctive  
15 designs tarnishes the image of and dilutes the distinctive character of the "Los  
16 Iracundos" mark and will diminish and destroy the public association of the trade  
17 name and mark of Plaintiff's licensor's musical group.

18 74. In engaging in the actions complained of above, Defendants and each  
19 of them willfully intended and intend to trade on the reputation of the musical  
20 group of the Plaintiff's licensor.

21 75. In engaging in the actions complained of above, defendants and each  
22 of them have willfully intended to cause dilution of the famous trade name and  
23 mark belonging to Plaintiff's licensor.

24 76. For each act of unfair competition, Plaintiff is entitled to recover  
25 actual damages as well as Defendants' profits from such infringement.

26 77. Defendants' continuous use of Plaintiff's trademark and distinctive  
27 designs diminishes and dilutes the distinctive value of the mark, to the great  
28 detriment of Plaintiff in contravention of 15 U.S.C. § 1125(c)(1).

1        78. As a result of Defendants' activities, Plaintiff and the public have  
2 been and are likely to be further irreparably damaged.  
3 causing confusion, mistake or deception.

4                                    **PRAYER FOR RELIEF**

5        Wherefore, Plaintiff prays for judgment against Defendants as follows:

6        1. For an order requiring Defendants to show cause, if they have any,  
7 why they should not be enjoined as set forth below, during the pendency of this  
8 action.

9        2. For a temporary restraining order, a preliminary injunction and a  
10 permanent injunction, all enjoining Defendants and each of them and their agents,  
11 servants, employees and co-ventures, and all persons in active concert or  
12 participation with them who receive actual notice of the order by personal service  
13 or otherwise, from engaging in or performing any of the following acts:

14                (a) Using the name "Los Iracundos" or any confusing similar  
15 or colorable imitation of the name, in connection with advertising in any form, or  
16 in connection with the goods or services of Defendants or any of them.

17                (b) Using the name "Los Iracundos" or any confusing similar  
18 colorable imitation of the name, in any manner for the purpose of enhancing the  
19 commercial value of the goods or services of Defendants;

20                (c) Otherwise infringing or diluting the distinctive quality of  
21 Plaintiff's service mark and trade name "Los Iracundos";

22                (d) Causing a likelihood of confusion, deception or mistake as to  
23 the makeup, source, nature or quality of Plaintiff's or Defendants' services.

24                (e) Contacting promoters, advertisers or other businesses for the  
25 purpose of offering the services of Defendants as "Los Iracundos" or any  
26 confusing similar or colorable imitation of the name.

27        3. For an order requiring the Defendants to deliver up and destroy all  
28 promotional literature, advertising, goods and other materials bearing the

1 infringing, diluting or injurious designations.

2 4. For actual damages in amount not less than \$100,000.00.

3 5. For three times the amount of Plaintiff's actual damages suffered by  
4 reason of Defendants' infringement of Plaintiff's mark and trade name.

5 6. For three times the amount of Defendants' profits derived from the  
6 infringement of Plaintiff's mark and trade name.

7 7. For punitive damages in an amount to be proved at trial.

8 8. For prejudgement interest.

9 9. For an accounting of all monies received by Defendants from their  
10 activities in connection with the use of the name "Los Iracundos."

11 10. For costs of suit.

12 11. For reasonable attorney fees.

13 12. For such relief as the court may deem appropriate.

14  
15  
16 Dated: September 6, 2013

LAW OFFICES LOPEZ & ASSOCIATES

17  
18  
19 By:   
20 Anthony R. Lopez, Attorney for  
21 Plaintiff Juan Carlos Velazquez  
22  
23  
24  
25  
26  
27  
28



**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial of this action by a jury.

Dated: September 6, 2013

LAW OFFICES LOPEZ & ASSOCIATES

By: 

Anthony R. Lopez, Attorney for  
Plaintiff Juan Carlos Velazquez

# EXHIBIT “A”

# United States of America

United States Patent and Trademark Office

## LOS IRACUNDOS

Reg. No. 4,232,880

Registered Oct. 30, 2012

Int. Cls.: 9 and 41

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

VELAZQUEZ, JUAN CARLOS (URUGUAY INDIVIDUAL)  
40 NE 1ST AVENUE, SUITE 404  
MIAMI, FL 33132

FOR: PRE-RECORDED CDS FEATURING PERFORMANCES BY A MUSICAL GROUP; PRE-RECORDED ELECTRONIC AND DIGITAL MEDIA FEATURING PERFORMANCES BY A MUSICAL GROUP, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-31-1974; IN COMMERCE 3-31-1974.

FOR: ENTERTAINMENT, NAMELY, LIVE PERFORMANCES BY A MUSICAL BAND, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 7-31-1976; IN COMMERCE 7-31-1976.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE ENGLISH TRANSLATION OF "LOS IRACUNDOS" IN THE MARK IS "THE IRASCIBLE ONES" OR "THE IRATE ONES".

SER. NO. 85-522,239, FILED 1-22-2012.

GILBERT SWIFT, EXAMINING ATTORNEY



*David J. Kyros*

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***  
**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\*  
See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***  
**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

ORIGINAL

Name & Address:

ANTHONY R. LOPEZ, a Professional Corporation  
LAW OFFICES LOPEZ & ASSOCIATES  
ANTHONY R. LOPEZ, CASBN 149653  
9025 Wilshire Blvd., Suite 500, Beverly Hills, CA  
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JUAN CARLOS VELAZQUEZ

CASE NUMBER

PLAINTIFF(S)

CV13-6549 JEM

v.

CELSO HERNANDEZ individually and doing  
businessas PLAYA LAS TUNAS RESTAURANT  
(SEE ATTACHMENT)

SUMMONS

DEFENDANT(S).

TO: DEFENDANT(S): Celso Hernandez individually and doing business as Playa Las Tunas Restaurant;  
Leonardo Franco Da Silva Zannier;Adan Franco;Gianni Pivetta;Ruben Aguilera;Concepcion Garcia

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ \_\_\_\_\_ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Anthony R. Lopez, whose address is 9025 Wilshire Blvd., Suite 500, Beverly Hills, CA 90211. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

SEP 5 2013

Dated: \_\_\_\_\_

Clerk, U.S. District Court

By: \_\_\_\_\_

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**Attachment to Summons**

JUAN CARLOS VELAZQUEZ;

Plaintiff

vs.

CELSO HERNANDEZ individually and  
doing business as PLAYA LAS TUNAS  
RESTAURANT; LEONARDO  
FRANCO DA SILVA ZANNIER;  
ADAN FRANCO; GIANNI PIVETTA;  
RUBEN AGUILERA; CONCEPCION  
GARCIA and DOES 1 to 5

Defendants.

---



COPY

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

|   |  |  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
|---|--|--|---|--|--|---|---|--------------------------------|---|--------------------------|---------------------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|---------------------------------------|----------------|----------------------------|----------------------------|
| <b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> )<br>Juan Carlos Velazquez   |  | <b>DEFENDANTS</b><br>Celso Hernandez individually and doing business as Playa Las Tunas Restaurant;<br>Leonardo Franco Da Silva Zannier; Adan Franco; Gianni Pivetta; Ruben Aguilera; Concepcion Garcia  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)<br>ANTHONY R. LOPEZ, a Professional Corporation<br>LAW OFFICES LOPEZ & ASSOCIATES, 9025 Wilshire Blvd. Suite 500<br>Beverly Hills, California, (310)276-4700  |  | Attorneys (If Known)   |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)<br><br><input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)<br><br><input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)  |  | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> - For Diversity Cases Only<br>(Place an X in one box for plaintiff and one for defendant.)<br><table style="width:100%"><tr><td>Citizen of This State</td><td>PTF <input type="checkbox"/> 1</td><td>DEF <input checked="" type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business in this State</td><td>PTF <input type="checkbox"/> 4</td><td>DEF <input checked="" type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input checked="" type="checkbox"/> 2</td><td><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="checkbox"/> 5</td><td><input type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="checkbox"/> 3</td><td><input checked="" type="checkbox"/> 3</td><td>Foreign Nation</td><td><input type="checkbox"/> 6</td><td><input type="checkbox"/> 6</td></tr></table> |   | Citizen of This State  | PTF <input type="checkbox"/> 1   | DEF <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input checked="" type="checkbox"/> 4 | Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen of This State   | PTF <input type="checkbox"/> 1   | DEF <input checked="" type="checkbox"/> 1  | Incorporated or Principal Place of Business in this State   | PTF <input type="checkbox"/> 4   | DEF <input checked="" type="checkbox"/> 4  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| Citizen of Another State  | <input checked="" type="checkbox"/> 2  | <input type="checkbox"/> 2   | Incorporated and Principal Place of Business in Another State   | <input type="checkbox"/> 5   | <input type="checkbox"/> 5   |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| Citizen or Subject of a Foreign Country   | <input type="checkbox"/> 3   | <input checked="" type="checkbox"/> 3  | Foreign Nation  | <input type="checkbox"/> 6   | <input type="checkbox"/> 6   |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>IV. ORIGIN</b> (Place an X in one box only.)<br><input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge  |  |  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>V. REQUESTED IN COMPLAINT:</b> JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)   |  |  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>CLASS ACTION</b> under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <b>MONEY DEMANDED IN COMPLAINT:</b> \$   |  |  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>VI. CAUSE OF ACTION</b> (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)<br>15 U.S.C. SECTION 1051 - TRADEMARK   |  |  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>VII. NATURE OF SUIT</b> (Place an X in one box only.)  |  |  |   |  |  |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |
| <b>OTHER STATUTES</b><br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce/ICC Rates/etc.<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Act<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Info. Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes | <b>CONTRACT</b><br><input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise<br><b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property | <b>TORTS</b><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Fed. Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury-Med Malpractice<br><input type="checkbox"/> 365 Personal Injury-Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus-Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions                                 | <b>TORTS</b><br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability<br><b>BANKRUPTCY</b><br><input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 American with Disabilities - Employment<br><input type="checkbox"/> 446 American with Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 Habeas Corpus<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus/Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><b>FORFEITURE/PENALTY</b><br><input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs<br><input type="checkbox"/> 660 Occupational Safety /Health<br><input type="checkbox"/> 690 Other | <b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input checked="" type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |   |   |                                |   |                          |                                       |                            |   |                            |                            |   |                            |                                       |                |                            |                            |

CV13-6549

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

|                           |   |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles               | Florida   |

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

|                           |   |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles               | Uruguay and Argentina   |

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

**Note: In land condemnation cases, use the location of the tract of land involved.**

|                           |   |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles               |   |

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved.

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** \_\_\_\_\_

**Date** 09/06/2013

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action   |
|---------------------|--------------|--|
| 861                 | HIA          | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862                 | BL           | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)  |
| 863                 | DIWC         | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))   |
| 863                 | DIWW         | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))  |
| 864                 | SSID         | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.  |
| 865                 | RSI          | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))   |